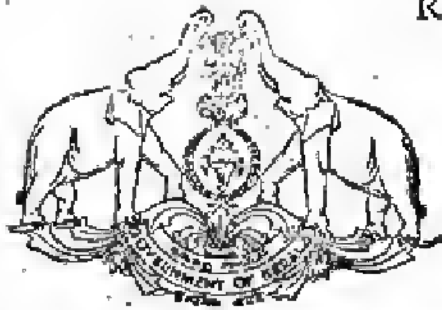
Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 3rd April 1985 / 13th Chaithra 1907 [No. 284

CONTENTS

REPORT OF THE SUBJECT COMMITTEE

ON

THE KERALA FINANCE BILL, 1985

AND

THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1377/MC

THE KERALA FINANCE BILL, 1985

(Report of the Subject Committee)

In pursuance of the motion adopted by the House on April 1, 1985, Subject Committee VIII—Economic Affairs, to which the Kerala Finance Bill, 1985 was referred, in association with Subject Committee II—Land Revenue, Forests and Fisheries and Subject Committee V—Public Works, Transport and Communications, considered the Bill clause by clause and now submits this, its report with the Bill as reported by the Committee annexed thereto.

2. The Kerala Finance Bill, 1985 was published as a Gazette Extraordinary dated March 25, 1985. The Bill was introduced in the Assembly on March 29, 1985.

3. The Committee considered the Bill clause by clause at the sitting held on April 1, 1985.

4. The Committee recommends to adopt the Bill without any change.

5. The minutes of dissent received from Smt. K. R. Gouri, Shri Varkala Radhakrishnan and Dr. A. Subba Rao (Members of Subject Committee VIII) and Shri G. Varadan and Shri T. K. Abdu (Members of Subject Committee II) is appended.

K. M. Mani,
Chairman,
Subject Committee—VIII.

MINUTES OF DISSENT

(1) Taxation policy must be based on the principle of taxing those who can afford to pay the Tax while exempting that section of the society who cannot pay. Many of the provisions of the Bill is contrary to this basic principle and will adversely affect the common man. Hence we are opposed to the policy in general underlying the bill.

(2) Many of the amendments proposed to the Stamp Act are examples of the above viz., Sl. No. 4, 5 (c), 23, 43 and 44 of the schedule:

(3) The Plantation Act was introduced from the year 1960 and we feel that it is high time to review the application of the Act to see whether the revenue to the government from the Agricultural Sector has increased in three years.

(4) We are of opinion that the amendment suggested to the Schedule to the General Sales Tax Act as per Sl. No. 147, 147A and 156 is to be deleted. We also suggest to delete the Clause 5(a) 1 (a) (b) (c) (d) of the bill to the proposed amendment to the schedule of the Motor Vehicle Taxation Act.

(5) From the experience of the application of General Sales Tax Act we are of opinion that the Amendment suggested in clause 6 giving arbitrary power to assessing authority by way of using his best of judgement will lead to misuse and consequent corrupt practices.

K. R. GOURI (Sd.)
VARKALA RADHAKRISHNAN (Sd.)
DR. A. SUBBA RAO (Sd.)
G. VARADAN (Sd.)
T. K. ABDU (Sd.)

THE KERALA FINANCE BILL, 1985

(As reported by the Subject Committee)

A

BILL

to give effect to the financial proposals of the Government of Kerala for the financial year 1985-86.

Preamble.—WHEREAS it is expedient to give effect to the financial proposals of the Government of Kerala for the financial year 1985-86;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Finance Act, 1985.

(2) It shall be deemed to have come into force on the 1st day of April, 1985.

2. *Amendment of Act* 17 *of* 1959.—In the Schedule to the Kerala Stamp Act, 1959 (17 of 1959),—

(1) for the entry "Five rupees" in column (3) against Serial Number 4, the entry "Ten Rupees" shall be substituted;

(2) in the entries in column (3) against Serial Number 5,—

(a) for the letters and figures "Rs. 10,000", the letters and figures "Rs. 1,000" shall be substituted;

(b) for the words "Three rupees", the words "Fifteen rupees" shall be substituted;

(3) for the entry "Two hundred rupees" in column (3) against Serial Number 10, the entry "One thousand rupees" shall be substituted;

(4) for the entries "Two rupees fifty paise" and "Five rupees" in column (3) against Serial Number 23, the entries "Five rupees" and "Ten rupees" shall respectively be substituted;

(5) for the entries "One hundred and fifty rupees" and "Three hundred and fifty rupees" in column (3) against Serial Number 36, the entries "Five hundred rupees" and "One thousand rupees" shall respectively be substituted;

(6) for the entries "Fifteen rupees", "Sixty rupees" and "Thirty rupees" in column (3) against Serial Number 43, the entries "One hundred

rupees", "Two hundred rupees" and "One hundred rupees" shall respectively be substituted;

(7) in the entries in column (3) against Serial Number 44,—

(a) for the entry "One rupee fifty paise", the entry "Five rupees" shall be substituted;

(b) for the entry "Three rupees", the entry "Ten rupees" shall be substituted;

(c) for the entry "Twenty rupees", the entry "Thirty rupees" shall be substituted;

(d) for the entry "Forty rupees", the entry "One hundred rupees" shall be substituted;

(e) for the entry "Five rupees for each person authorised", the entry "Thirty rupees for each person authorised" shall be substituted;

(8) in the entries in column (3) against Serial Number 47, for the words "Seventy-five rupees" and "Fifty rupees", the words "One hundred and fifty rupees" and "One hundred rupees" shall respectively be substituted.

3. *Amendment of Act* 17 *of* 1960.—For Schedule I to the Kerala Plantation Tax Act, 1960 (17 of 1960), the following Schedule shall be substituted, namely:—

"SCHEDULE I

[*See* section 3(1)]

Rates of Plantation Tax

1	Where the aggregate extent of plantations held by a person does not exceed four hectares	Nil
2	Where the aggregate extent of plantations held by a person exceeds four hectares but does not exceed eight hectares	Seventy rupees per hectare on the extent of plantations in excess of four hectares
3	Where the aggregate extent of plantations held by a person exceeds eight hectares but does not exceed twenty hectares	Ninety rupees per hectare on the extent of plantations in excess of four hectares

4.	Where the aggregate extent of plantations held by a person exceeds twenty hectares	One hundred and thirty rupees per hectare on the extent of plantations in excess of four hectares.".

4. *Amendment of Act* 15 *of* 1963.—In the First Schedule to the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(1) in column (4) against Serial Number 36, for the figures "50", the figures "55" shall be substituted;

(2) in column (4) against Serial Number 36A, for the figures "35", the figures "40" shall be substituted;

(3) for Serial Number 143 and the entries relating thereto, the following Serial Numbers and entries shall be substituted, namely:—

"143.	Upholstered furniture	At the point of first sale in the State by a dealer who is liable to tax under section 5.	10
143A.	Sofa sets, dressing tables and furniture of all types made of timber, rattan or bamboo	do.	7";

(4) for Serial Number 147 and the entries relating thereto, the following Serial Numbers and entries shall be substituted, namely:—

"147.	Hosiery goods made of Cotton	At the point of first sale in the State by a dealer who is liable to tax under section 5.	5
147A.	Hosiery goods, other than those made of cotton	do.	8";

(5) in column (4) against Serial Number 156, for the figure "6", the figure "8" shall be substituted.

5. *Amendment of Act* 19 *of* 1976.—In the Schedule to the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976),—

(a) for Serial Number 1 and the entries relating thereto, the following Serial Number and entries shall be substituted, namely:—

"1. Motor Cycles (including Motor Scooters and Cycles with attachment for propelling the same by mechanical power)—

(a)	Bicycles not exceeding 100 kg. in unladen weight	12.00

(b) Bicycles exceeding 100 kg. but not exceeding 200 kg. in unladen weight	15.00
(c) Bicycles exceeding 200 kg. in unladen weight	18.00
(d) Bicycles with side car or drawing a trailer	21.00";

(b) in the entries relating to Serial Number 7, for sub-classes (a), (b), (c) and (d) under the heading "Class of vehicle" and the entries against them under the heading "Rate of quarterly tax", the following sub-classes and entries shall be substituted, namely:—

"(a) Weighing not more than 750 kg. unladen	45.00
(b) Weighing more than 750 kg. but not more than 1500 kg. unladen	55.00
(c) Weighing more than 1500 kg. but not more than 2250 kg. unladen	70.00
(d) Weighing more than 2250 kg. unladen	85.00".

6. *Amendment of Act* 32 *of* 1976.—In the Kerala Tax on Luxuries in Hotels and Lodging Houses Act, 1976 (32 of 1976), in section 6, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) If the proprietor fails to submit the return under section 5 in due time or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority, shall, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the proprietor to the best of its judgment:

Provided that before taking action under this sub-section, the proprietor shall be given a reasonable opportunity of being heard and, where a return has been submitted, to prove the correctness or completeness of such return.".

7. *Amendment of Act* 20 *of* 1978.—In section 2 of the Kerala Additional Sales Tax Act, 1978 (20 of 1978), in sub-section (1), for the words "fifteen per cent", the words "twenty per cent" shall be substituted.

Secretariat of the Kerala Legislature,
Trivandrum,
April 1, 1985.

K. P. PADMANABHAN,
Secretary.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 3rd April 1985 / 13th Chaithra 1907]No. 285

CONTENTS

REPORT OF THE SELECT COMMITTEE

ON

THE KERALA FISHERMEN'S WELFARE FUND BILL, 1984

AND

THE BILL AS REPORTED BY THE SELECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1378/MC

THE KERALA FISHERMEN'S WELFARE FUND BILL, 1984

(Report of the Select Committee)

The Select Committee to which the Kerala Fishermen's Welfare Fund Bill, 1984 was referred, have considered the Bill clause by clause and now submit this, their Report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published as a Gazette Extraordinary dated July 23, 1984. The Bill was introduced in the Assembly on July 27, 1984 and the motion for reference to Select Committee was adopted on the same day.

3. The Committee held twelve sittings of which six sittings (one day each at Trivandrum, Calicut, Sherthallai, Vizhinjam and two days at Ernakulam) were entirely devoted to the recording of evidence from representatives of organisations, associations and persons interested in the provisions of the Bill. The Committee recommends to adopt the Bill with the following modifications:—

4 (i). *Sub-clause (d) of clause* 2.—The Committee considers that the definition of "dealer" in sub-clause (d) of clause 2 shall be modified to include therein a person who buys but does not sell the fish within the State and also the agents of non-resident dealers and local branches of business concerns situated outside the State. Therefore, the definition of "dealer" in this sub-clause may be modified as follows:—

(d) "dealer" means any person who carries on within the State of Kerala, the business of buying or selling fish or processing fish for export or domestic marketing and includes:—

(i) a commission agent, a broker, or any other mercantile agent by whatever name called; and

(ii) a non-resident dealer or an agent of a non-resident dealer or a local branch of a firm or company or association situated outside the State of Kerala;"

(ii) *New sub-clause (e) of clause* 2.—The Committee considers that the expression fish used in the Bill shall include prawn also. For removal of doubt it is necessary to define the expression 'fish' as including prawn. Therefore the following new definition may be incorporated as sub-clause (e) in this clause.

"(e)" "fish" includes prawn;";

33/1378/MC.

(*iii*) *Sub-clause* (g) *of clause* 2.—Sub-clause (g) of clause 2 seeks to define the expression "fishing vessel". The committee considers that item (ii) of that sub-clause shall be modified to make it clear that the country craft shall take in all kinds of fishing vessels known by the name "vallom" or "vanchi" or by other similar local expressions. The Committee is also of the view that country craft will include canoe also. Hence item (iii) of sub-clause (g) may be omitted and item (ii) may be modified as follows:—

"(ii) a country craft known by the name "vanchi" or "vallom" or by any other local variations thereof.";

(*iv*) *Sub-clause* (4) *of clause* 3.—Item (c) of sub-clause (4) of clause 3 seeks to provide for payment of loans to fishermen for certain specified purpose. The Committee considers that provision shall be made for payment of grants for any of the purposes specified therein. Therefore, the words "or grants" may be inserted after the word "loans" in item (c) of sub-clause (4) of that clause.

(*v*) *Sub-clause* (1) *of clause* 4.—The Committee considers that contribution from the fisherman under sub-clause (1) of clause 4 shall only be 3% of the value of fish caught by him and that his contribution for the first three years shall be only at the rate of Rs. 30 per year. The said sub-clause may be modified for the purpose as indicated;

(*vi*) *Sub-clause* (3) *of clause* 4.—The Committee considers that the contribution per month for nine months in a year for a mechanised boat below 15 GRT shall be only Rs. 100, for a mechanised boat of 15 GRT and above but below 25 GRT shall be Rs. 200, for a mechanised boat of 25 GRT and above upto 35 GRT shall be Rs. 400, and for a mechanised boat above 35 GRT shall be Rs. 1000. Item (b) of sub-clause (3) of clause 4 may be modified for this purpose, as follows:—

"(b) mechanised boat,—

(i)	below 15 GRT	—	Rs. 100 per month per boat for nine months;
(ii)	of 15 GRT and above but bleow 25 GRT	—	Rs. 200 per month per boat for nine months
(iii)	of 25 GRT and above upto 35 GRT	—	Rs. 400 per month per boat for nine months;
(iv)	above 35 GRT	—	Rs. 1000 per month per boat for nine months";

(*vii*) *New sub-clause* (4) *in clause* 4.—The Committee considers that contribution shall be levied from the owners of china net, stake net and free net used for fishing, at the rate of Re. 1 per net per month for nine months a

year. A new sub-clause (4) may be inserted in clause 4 for this purpose, as follows:—

"(4) The owner of a fishing net shall contribute to the fund one rupee per net per month for nine months every year.

Explanation.—For the purposes of this sub-section "fishing net" means a china net or a stake net or a free net used for catching fish.";

(*viii*) *New sub-clause* (5) *in clause* 4.—The Committee considers that contribution shall be levied from owners of waterlogged areas, other than paddy land, where prawn filtration is carried on and from owners of fish farm, at the rate of two per cent of the value of the catch. It is also decided that the fish farms shall be exempted from payment of contribution for a period of three years. A new sub-clause (5) may be incorporated in clause 4 for this purpose, as follows:—

"(5) The owner of a prawn filtration area or a fish farm shall contribute every year to the fund two per cent of the value of the prawn and other fish caught from the prawn filtration area or the fish farm during the year:

Provided that the Board shall fix upon such principles as may be specified in the scheme, the amount which the owner of a prawn filtration area shall contribute every year to the fund for a period of three years from the commencement of the Act:

Provided further that the amount fixed under the preceding proviso shall not exceed two per cent of the value of the prawn and other fish caught during a year:

Provided also that no contribution shall be payable by the owner of a fish farm for the first three years from the formation of the fish farm.

Explanation.—For the purposes of this sub-section, "prawn filtration area" means any waterlogged area where prawn filtration is carried on during the whole or any part of the year; but does not include paddy land."

(ix) *New sub-clause* (6) *in clause* 4.—The Committee considers that the contribution payable by a fisherman employed in a fishing vessel shall be paid by the employer after deducting that amount from the money due to the fisherman from such employer. A new sub-clause (6) may be incorporated in clause 4 for the purpose as follows:—

"(6) A person who employs a fisherman in a fishing vessel shall be liable to pay under sub-section (7) the contribution payable by that fisherman under sub-section (1), after deducting that amount from the wages or other remuneration due to such fisherman.";

(x) *Sub-clause* (3) *of clause* 7.—The Committee considers that Law Secretary or an officer of the Law Department nominated by him shall also be a member of the Board. Therefore the following may be inserted as item (d) of sub-clause (3) of clause 7.

"(d) the Law Secretary or an officer of Law Department nominated by him";

Item (e) of sub-clause (3) of clause 7 seeks to provide for nomination of two representatives of fishermen to the Board. The Committee considers that the number of such representatives may be three. Accordingly, the said item (e) of sub-clause (3) of clause 7 may be modified by substituting the word "three" for the word "two";

(xi) *New sub-clause* (4) *in clause* 7.— The Committee considers that the Government shall be given the power to nominate any one of the members of the Board as its Chairman. A new sub-clause may be incorporated in clause 7 as sub-clause (4) for this purpose, as follows:—

"(4) The Government shall nominate one of the members of the Board as its Chairman.";

(xii) *Sub-clause* (1) *of clause* 9.— Sub-clause (1) of clause 9 seeks to provide that the term of non-official members of the Board shall be three years. The Committee considers that the said term may be five years. Sub-clause (1) of clause 9 may be modified for the purpose, by substituting the word "five", for the word "three".

(xiii) *New sub-clause* (3) *in clause* 11—Clause 11 seeks to make provision for appointment of staff to the service under the Board. The Committee considers that in the case of posts to which appointment is made by direct recruitment, fifteen per cent shall be reserved for candidates belonging to families of fishermen, ten per cent shall be reserved for Scheduled Castes and Scheduled Tribes and twenty-five per cent shall be reserved for Other Backward Classes. A new sub-clause may be added to this clause as sub-clause (3) for this purpose, as follows:—

"(3) In the case of posts in the service under the Board to which appointment is made by direct recruitment,—

(a) fifteen per cent shall be reserved for appointment from candidates belonging to families of fishermen;

(b) ten per cent shall be reserved for appointment from candidates belonging to Scheduled Castes and Scheduled Tribes; and

(c) twenty-five per cent shall be reserved for appointment from candidates belonging to other backward classes.

Explanation.—For the purposes of this sub-section, the expressions "scheduled castes", "scheduled tribes" and "other backward classes" shall have the meanings respectively assigned to them in the Kerala State and Subordinate Services Rules, 1958.";

(xiv) The other modifications are verbal or consequential.

K. KARUNAKARAN,

Chairman of the Select Committee.

THE KERALA FISHERMEN'S WELFARE FUND BILL, 1984

Dissenting Note

I

Fishing Industry is a growing industry in the State. Statistics on catch, selling and export will testify to this. There is every scope for the development of this industry if the Government takes intelligent measures to cope its needs.

2. Ordinarily, Welfare Fund legislations are meant for implementing mainly welfare measures for the labour folk where labour-employment relationship exists. Fishermen or people who live mainly on income from fishing operations and working in factories have increased hundred time. Therefore, the application of this is to be expanded since it applied only to fishermen. To expand the application and give security to all those who live in fishermen's villages, mainly from income from fishing operations, the catchers, workers of prawn filtering areas, peelers, graders and employees engaged in mechanical jobs in freezing plants and in similar work. In the interior parts where there are ponds or Government or Panchayat channels or waterlogged areas though they may not come under fishermen's villages, the people from that area live by it. It has become a practice of women folk especially Harijans women to earn their livelihood by catching fish from these areas for nine months in a year when water is available. They have no other source income. They have to give a fee or contribution to the Fund since they own small fishing nets. But they are not benefited by the Fund.

3. Lot of females engaged in peeling sheds are excluded from the purview of this Bill. Government may claim that they come under the Factories Act. But it is easy to evade the law since these peelers are a moving force of particular locality and are not constant at a particular place or factory. Moreover, these people are employed by different peeling shed owners, whenever there are prawns available. They need welfare measures. They work from the early hours of the day till late in the night under most unhygenic conditions. They earn for the country not less than hundred and sixty crores of rupees worth foreign exchange. More than 60% of the prawns they peel come from other States. It is only naturally that these people are included as beneficiaries of the bill.

4. Fishermen's Welfare Society Act of 1980 and the Bill now introduced are for two different purposes. Fishermen's Welfare Societies Act, 1980 was introduced to save fishermen from the exploitation of the owners of the fishing vessels and implements and make them owners of the implements and vessels and render adequate financial help and to ward of interference by money lenders and to have sufficient finance to store and sale of fish.

5. In the definition of dealers, commission agents or other persons who purchase fish on behalf of other persons are also to be included.

6. Clauses are to be modified and the legislature must have the full power to discuss any new scheme notified by the Government before its implementation.

7. Non-officials are to be given a majority in the constitution of the Board. Non-officials are also be elected members and not nominated by the Government in the following manner:—

Except in the first Board which term is to be reduced to 2 years. Representation has to be given to the non-official members in the following manner:—

Two members of the fishermen's villages elected by fishermen's villages.

One elected member from the workers of the peeling shed and one member from inland fishing folk who catch fish from farms and other waterlogged areas not coming within the fishermen villages.

8. Many of the provisions in this Bill have same power and same duties prescribed in the Fishermen's Act.

9. In clause 3, sub-clause 4 (f) old age assistance may be converted as pension. A limit on income of the family be made and the definition of the family be limited to father, mother and children (sons only).

(Sd.)
K. R. Gouri
Member, Select Committee.

(Sd.)
P. Devootty
Member, Select Committee

(Sd.)
Kodiyeri Balakrishnan
Member, Select Committee

(Sd.)
T. P. Peethambaran Master
Member, Select Committee

(Sd.)
C. K. Chakrapani,
Member, Select Committee

Trivandrum,
March 29, 1985.

II

Fishing industry is a growing industry in the State. Statistics on catch, selling and export testify to this. There is every scope for the development of this industry if the Government adopts intelligent measures to cope with its needs.

2. Ordinarily, Welfare Fund Legislation is meant to implement mainly welfare measures for the labour folk where labour-employment relationship exists. Fishermen or people who live mainly on income from fishing operations and working in factories have increased a hundred times. Therefore, the application of this is to be enlarged since it applied only to fishermen. To expand the application and give security to all those who live in fishermen's villages, mainly on income from fishing operations, the catchers, workers of prawn filtering areas, peelers, graders and employees engaged in mechanical jobs in freezing plants and in similar work. In the interior parts where there are ponds or Government or Panchayat channels or water logged areas. Though they may not come under fishermen's villages, the people from that area live by it. It has become a practice among women folk especially Harijans women to earn their livelihood by catching fish from these areas for nine months in the year when water is available. They have no other source of income. They have to give a fee or contribution to the Fund since they own small fishing nets. But they are not benefited by the Fund.

3. Lot of women engaged in peeling sheds are excluded from the purview of this Bill. Government may claim that they come under the Factories Act. But it is easy to evade the law since these peelers are a moving force of particular localities and are not stationary at a particular place or factory. Moreover, these people are employed by different peeling shed owners, whenever prawns are available. They need welfare measures. They work from the early hours of the day till late in the night under most unhygenic conditions. They earn for the country not less than hundred and sixty crores of rupees worth foreign exchange. More than 60% of the prawn they peel come from other States. It is only natural that these people are included as beneficiaries of the legislation.

4. Fishermen's Welfare Society Act of 1980 and the Bill now introduced are for two different purposes. Fishermen's Welfare Societies Act, 1980 was introduced to save fishermen from the exploitation of the owners of the Fishing vessels and implements and make them owners of the implements and vessels and render adequate financial help and to ward off interference by money lenders and to have sufficient finance to store and sell fish.

5. In the definition of dealers, commissions agents or other persons who purchase fish on behalf of other persons are also to be included.

6. The Relevant clauses are to be modified and the legislature must have the full power to discuss any new scheme notified by the Government before its implementation.

7. Non-officials may be in a majority in the Constitution of the Board. Non-officials may also be elected members and not nominated by the Government in the following manner:—

Except in the first Board which term is to be reduced to 2 years. Representation has to be given to the non-official members in the following manner :—

Two members of the fishermen's villages elected by the fishermen's villages.

One elected member from the workers of the peeling shed and one member from inland fishing folk who catch fish from farms and other waterlogged areas not coming within the fishermen villages.

8. Many of the provisions of this Bill have same power and same duties prescribed in the Fishermen's Act.

9. In clause 3 Sub-clause 4(f) old age assistance may be converted as pension. A limit on income of the family be made and the definition of the family be limited to father, mother and children (sons only).

(Sd.)

K. V. SURENDRANATH,
Member, Select Committee.

Trivandrum,
March 30, 1985.

THE KERALA FISHERMEN'S WELFARE FUND BILL, 1984

(As reported by the Select Committee)

[Words underlined or sidelined indicate the amendments suggested by the Committee. Omissions are indicated by asterisks.]

A

BILL

to provide for the constitution of a welfare fund for promoting the welfare of fishermen in the State of Kerala and for matters incidental thereto.

Preamble.—WHEREAS it is expedient to provide for the constitution of a welfare fund for promotion of the welfare of fishermen in the State of Kerala and for certain other matters incidental thereto;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Fishermen's Welfare Fund Act, 1985.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Kerala Fishermen's Welfare Fund Board constituted under section 7;

(b) "Contribution" means the sum of money payable to the fund under section 4;

(c) "Director of Fisheries" means the Director of Fisheries for the State of Kerala;

(d) "dealer" means any person who carries on within the State of Kerala the business of buying and selling fish; or processing fish for export or domestic, marketing and includes,—

(i) a commission agent, a broker, or any other mercantile agent by whatever name called; and

(ii) a non-resident dealer or an agent of a non-resident dealer or a local branch of a firm or company or association situated outside the State of Kerala.";

(e) "fish" includes prawns;

(f) "Fisheries Officer" means the Fisheries Officer appointed under clause (d) of section 2 of the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981);

(g) "fisherman" means a fisherman as defined in clause (e) of section of the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981);

(h) "fishing vessel" means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in fishing for profit and includes,—

(i) a catamaran, and

(ii) a country craft, known by the name "vanchi" or "vallom" or by any other local variations thereof, * * * * * * * engaged in fishing;

(i) "fund" means the Kerala Fishermen's Welfare Fund established under section 3 and the scheme;

(j) "member" means a member of the fund;

(k) "scheme" means the Kerala Fishermen's Welfare Fund Scheme framed under this Act;

(l) "schedule" means the schedule to this Act.

3. *Fishermen's Welfare Fund Scheme.*—(1) The Government may, by notification in the Gazette, frame a scheme to be called the Kerala Fishermen's Welfare Fund Scheme for the establishment of a fund under this Act by name "the Fishermen's Welfare Fund" for the welfare of fishermen and there shall be established, as soon as may be after the framing of the scheme, the fund in accordance with the provision :of this Act and scheme.

(2) There shall be credited to the fund,—

(a) the contributions specified in section 4;

(b) fee levied under the scheme;

(c) damages realised under section 21;

(d) grants or loans or advances made by the Government of India or the State Government;

(e) any voluntary donations;

(f) any penalty levied under the provisions of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981);

(g) any amount raised by the Board from other sources to augment the resources of the Board.

(3) The fund shall vest in and be administered by the Board.

(4) The fund may be utilised for all or any of the following purposes namely:—

(a) to provide for distress relief to fishermen in times of natural calamities;

(b) for payment of financial assistance to fishermen who suffer permanent or temporary disablement;

(c) for payment of loans or grants to fishermen to meet the expenses for the marriage of children, or expenses in connection with disease or death of dependants, or any unexpected expenditure or the day to day expenditure during lean months;

(d) to provide for the fishermen and the members of their families,—

(i) education, vocational training and part-time employment;

(ii) social education centres including reading rooms and libraries;

(iii) sports, games and medical facilities;

(iv) nutritious food for children; and

(v) employment opportunities to the handicapped;

(e) for payment of financial assistance to fishermen who suffer loss of houses or fishing implements or any other damage due to natural calamities or other unexpected causes;

(f) to provide old age assistance to fishermen;

(g) for the implementation of any other purpose specified in the scheme.

(5) Every fisherman who is a member of a Fishermen's Welfare Society constituted under section 4 of the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981), shall be a member of the fund.

(6) Subject to the provisions of this Act, the scheme framed under sub-section (1) may provide for all or any of the matters specified in sub-section (4) and in the schedule.

4. *Contribution to the Fund.*—(1) A fisherman shall contribute to the fund three per cent of the value of fish caught by him during a year:

Provided that the contribution by a fisherman for a period of three years from the commencement of the Act shall be at the rate of Rs. 30 per year.

(2) A dealer shall contribute every year to the fund one per cent of his sale proceeds in the year:

Provided that the Board shall fix, upon such principles as may be specified in the scheme, the amount which a dealer shall contribute every year to the fund, for a period of three years from the commencement of this Act:

Provided further that the amount fixed under the preceding proviso shall not exceed one per cent of the sale proceeds of the dealer.

(3) The owner of a fishing vessel shall contribute to the fund every year an amount calculated at the following rates, namely:—

(a) traditional craft,—

(i)	catamaran (non-motorised)	— Re. 1 per month per catamaran for nine months.
	catamaran (motorised)	— Rs. 2 per month per catamaran for nine months.
(ii)	country craft upto 9 metre size (non-motorised)	— Rs. 3 per month per country craft for nine months.
	country craft upto 9 metre size (motorised)	— Rs. 5 per month per country craft for nine months.
(iii)	country craft above 9 metre size (non-motorised)	— Rs. 5 per month per canoe for nine months.
	country craft above 9 metre size (motorised)	— Rs. 7 per month per canoe for nine months.

(b) Mechanised boat,—

(i)	below 15 GRT	— Rs. 100 per month per boat for nine months;
(ii)	of 15 GRT and above but below 25 GRT	— Rs. 200 per month per boat for nine months;
(iii)	of 25 GRT and above upto 35 GRT	— Rs. 400 per month per boat for nine months;
(iv)	above 35 GRT	— Rs. 1000 per month per boat for nine months.

(4) The owner of a fishing net shall contribute to the fund one rupee per net per month for nine months every year.

Explanation.—For the purposes of this sub-section, "fishing net" means a china net or a stakenet or a free net used for catching fish.

(5) The owner of a prawn filtration area or a fish farm shall contribute every year to the fund two per cent of the value of the prawn and other fish caught from the prawn filtration area or the fish farm during the year:

Provided that the Board shall fix upon such principles as may be specified in the scheme, the amount which the owner of a prawn filtration area shall contribute every year to the fund for a period of three years from the commencement of the Act:

Provided further that the amount fixed under the preceding proviso shall not exceed two per cent of the value of the prawn and other fish caught during a year:

Provided also that no contribution shall be payable by the owner of a fish farm for the first three years from the formation of the first farm

Explanation.—For the purposes of this sub-section, "prawn filtration area" means any water-logged area where prawn filtration is carried on during the whole or any part of the year but does not include paddy and.

(6) A person who employs a fisherman in a fishing vessel shall be liable to pay under sub-section (7) the contribution payable by that fisherman under sub-section (1) after deducting that amount from the wages or other remuneration due to such fisherman.

(7) The contributions shall be paid to the Fisheries Officer or to any officer of the Board authorised by the Board in this behalf.

(8) The amount of contribution shall be rounded off to the nearest rupee and, where such amount contains part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

5. *Amount to be accounted to the credit of each member.*—Each member shall be entitled to such amount in the fund as may be fixed in accordance with the formula specified in the scheme and entered in the accounts of the fund to his credit.

6. *Modifications of Scheme.*—The Government may, by notification in the Gazette add to, amend or vary the scheme.

7. *Constitution of Board.*—(1) The Government may, by notification in the Gazette, constitute with effect from such date as may be specified therein, a Board to be called the Kerala Fishermen's Welfare Fund Board for the administration of the fund and to superwise and to carry out the activities financed from the fund.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of the following members, namely,—

(a) Secretary to Government in charge of fisheries * *

* * * * * * * *

(b) the Director of Fisheries;

(c) The Chairman and Managing Director of the Kerala State Co-operative Federation for Fisheries Development;

(d) the Law Secretary or an officer of Law Department nominated by him;

(e) a representative of the Finance Department to be nominated by the Government; and

(f) three representatives of the fishermen to be nominated by the Government.

(4) The Government shall nominate one of the members of the Board as its Chairman.

(5) The Board shall administer the fund in such manner as may be specified in the scheme.

(6) The Board may, with the previous approval of the Government, delegate to the Director of Fisheries or to the Managing Director of the Kerala State Co-operative Federation for Fisheries Development or to any officer of the Government or of the Board, such of its powers and functions under this Act or the scheme as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.

8. *Power of the Board to borrow.*—The Board may, from time to time, with the previous approval of the Government and subject to such terms and conditions as may be specified by the Government, borrow money for the purposes of the scheme.

9. *Term of office of non-official members.*—(1) A member nominated under clause (e) of sub-section (3) of section 7 shall hold office for a term of five years from the date of his nomination, and shall be eligible for renomination.

(2) Any nominated member may resign his membership by giving notice in writing to the Government but shall continue in office until his resignation is accepted by the Government.

10. *Removal of non-official members.*—(1) The Government may, by notification in the Gazette, remove any non-official member of the Board from office,—

(a) if he has, without the permission of the Board been absent from the meetings of the Board for any period exceeding three consecutive months or if within the said period, less than three meetings have been held, he absents himself from three consecutive meetings;

(b) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as such member detrimental to the public interest:

Provided that before removing a member under this sub-section, he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A non-official member of the Board removed under clause (a) of sub-section (1) shall be disqualified for nomination as a member of the Board for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official member of the Board removed under clause (b) of sub-section (1) shall not be eligible for renomination until he is declared by an order of the Government to be no longer ineligible.

11. *Appointment of staff.*—(1) The Board may, with the previous approval of the Government, appoint such staff as it may consider necessary.

(2) Subject to the provisions of sub-section (3), the method of recruitment, salary and allowances and other conditions of service of the staff appointed by the Board shall be such as may be specified by the Board with the previous approval of the Government.

(3) In the case of posts in the service under the Board to which appointment is made by the direct recruitment,—

(a) fifteen percent shall be reserved for appointment from candidates belonging to families of fishermen;

(b) ten per cent shall be reserved for appointment from candidates belonging to scheduled castes and scheduled tribes; and

(c) twenty-five per cent shall be reserved for appointment from candidates belonging to other backward classes.

Explanation.—For the purposes of this sub-section the expressions "scheduled castes", "scheduled tribes" and "other backward classes" shall have the meanings respectively assigned to them in the Kerala State and Subordinate Services Rules, 1958.

12. *Determination of contribution.*—(1) The Fisheries Officer or any officer of the Board not below the rank of a Sub Inspector of Fisheries authorised by the Board in this behalf may, after making such inquiry as may be necessary and after giving every person liable to pay contribution under section 4 an opportunity to be heard, by order, determine the amount due from such person under that section.

(2) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses.

(3) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(4) Any person aggrieved by an order under sub-section (1) may prefer an appeal to the Director of Fisheries within sixty days from the date of receipt of the order and the decision of the Director of Fisheries on such order shall be final.

13. *Provisional assessment and collection of advance contribution.*—(1) Every person liable to pay contribution under section 4 shall, pending determination under section 12 of the amount due from him, pay every month by way of advance contribution an amount equivalent to one-twelfth of the amount payable annually by him according to the latest determination under the said section:

Provided that the provisions of this sub-section shall not apply to the payment of contribution by a fisherman or a dealer or the owner of a prawn filtration area or a fish form for the period of three years from the commencement of this Act under the proviso to sub-section (1) or sub-section (2) or sub-section (5) of section 4, as the case may be.

(2) The advance contribution for a month shall become payable on or before the 5th day of the succeeding month.

(3) Where the advance contribution is not paid on or before the due date, the Fisheries Officer or any Officer of the Board authorised by it in this behalf, shall issue a notice to the defaulter showing the amount of arrears, and if the amount is not paid within fifteen days of the receipt of such notice, it may be recovered in the same manner as arrears of public revenue due on land under the Revenue Recovery Act for the time being in force.

(4) The amount paid under this section for an year shall be adjusted against the amount determined under section 12 for that year.

14. *Exemption.*—Government may by notification in the Gazette, exempt any dealer, whose annual turnover from fish does not exceed Rs. 24,000

per annum from all or any of the provisions of this Act, subject to such condition as may be specified in the notification.

15. *Power to obtain copies of records etc., maintained by a Fishermen's Welfare Society.*—(1) Any officer of the Board not below the rank of a Fisheries Development Officer authorised by it in that behalf shall have power to peruse the books or registers or other records maintained by a Fishermen's Welfare Society constituted under the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981) or to requisition the supply of a copy of any such book or register or other record or of any entry therein as may be specified in such requisition.

(2) The Fisheries Officer shall provide all facilities for the perusal of any book or register or other records by an officer under sub-section (1) and shall comply with any requisition made under that sub-section.

16. *Mode of recovery of money due under the Act.*—Any amount due from any person under the provisions of this Act or the scheme may be recovered in the same manner as an arrear of public revenue due on land under the Revenue Recovery Act for the time being in force.

17. *Protection against attachment.*— (1) The amount standing to the credit of any member in the fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member and no receiver appointed under the Insolvency Act, 1955 (2 of 1956), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of a member in the fund at the time of his death and payable to his nominee under the scheme shall, subject to any deduction authorised by the scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member.

18. *Priority of payment of contributions over other debt.*—Where any person liable to pay contribution under section 4 is adjudicated insolvent or, in case where such person is a company, an order for winding up is made, the amount due from such person under the scheme shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 64 of the Insolvency Act, 1955 (2 of 1956) or under section 530 of the Companies Act, 1956 (Central Act 1 of 1956) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

19. *Penalty.*—(1) Whoever for the purpose of avoiding any payment to be made by himself under this Act or under the scheme or for enabling

any other person to avoid such payment knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or of the scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(3) No court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with the previous sanction of the Board, by the Director of Fisheries or by the Managing Director of the Kerala State Co-operative Federation for Fisheries Development or by such officer of the Board or Department of Fisheries not below the rank of Assistant Director of Fisheries, as may be specified in this behalf by the Board.

20. *Offences by Companies.*—(1) If the person committing an offence under this Act is a company, every officer of the company who is in default as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that in any proceeding against an officer of the company in respect of an offence under this Act it appears to the court hearing the case that the offence is not attributable to the negligence, default, breach of duty, misfeasance or breach of trust committed by the officer, but that he has acted honestly and reasonably and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused, the court may relieve him either wholly or partly, from his liability on such terms as it may think fit.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any wilful negligence, default, breach of duty, misfeasance or breach of trust on the part of any officer of the company, such officer of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm, a co-operative society or other association of individuals;

(b) "director" in relation to a firm means a partner in the firm;

(c) "Officer of the company" means the Managing Director, Director, Managing Agent, Secretary, Treasurer or Manager of the company and includes the office-bearers of a firm, co-operative society or other association of individuals; and

(d) "Officer of the company who is in default" means any officer of the company who is knowingly guilty of non-compliance, failure, or contravention of the provisions of this Act or the scheme or who knowingly and wilfully authorises or permits such non-compliance, failure or contravention.

21. *Power to recover damages.*—Where any person makes default in the payment of any contribution, the Board may recover from him damages not exceeding twenty-five per cent of the amount of arrear as they may think fit to impose.

22. *Protection of acts done in good faith.*—No suit or other legal proceeding shall lie against any member of the Board or any other person in respect of anything which is in good faith done or intended to be done under this Act or under the scheme.

23. *Direction by Government.*—(1) The Government may, after consultation with the Board, give to the Board general directions to be followed by the Board.

(2) In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general direction issued under sub-section (1) except with the previous permission of the Government.

24. *Power to order inquiry.*—(1) The Government may, at any time. appoint any person to inquire into the working of the Board and to submit a report to the Government.

(2) The Board shall give the person so appointed all facilities for the proper conduct of the inquiry and furnish to him such documents, accounts or information in the possession of the Board as he may require.

25. *Power to supersede the Board.*—(1) If, on consideration of the report under section 24 or otherwise, the Government are of opinion that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the scheme or has exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the Board for such period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1),—

(a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members;

(b) all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such officer or officers as may be specified in the notification;

(c) all funds and other properties vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government shall reconstitute the Board in the manner provided in section 7.

26. *Power to make rules.*—The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

27. *Laying of rules and notifications before the Legislative Assembly.*—Every rule made under this Act and every notification issued under section 6 shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

SCHEDULE

[*See* section 3 (6)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE SCHEME

1. The time and manner in which contribution to the fund shall be made by fisherman, dealer and owner of fishing vessels.

2. The manner in which the Board shall administer the fund, the manner in which accounts shall be kept, the investment of money belonging to the fund in accordance with any directions issued or conditions specified by the Government, the preparation of the budget, the audit of accounts and the submission of report to the Government.

3. The registers and records to be maintained with respect to fishermen, dealers and owners of fishing vessels.

4. The formula for fixing the amount to be credited to the account of each member of the fund.

5. The procedure for making grants or advances from the fund.

6. The procedure for and the conditions under which any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

7. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.

8. The form or design of any identity card, token or disc for the purpose of identifying any member of the fund, and for issue, custody and replacement thereof.

9. The fees to be levied for any of the purposes specified in this Schedule.

10. The purposes for which the fund may be utilised for the welfare of fishermen or their dependants.

11. The procedure for defraying the expenditure incurred in the administration of the fund.

12. Any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

Secretariat of the Kerala Legislature,
Trivandrum,
April 3, 1985.

K. P. PADMANABHAN,
Secretary.

Reg. No. KL/TV(N)/12

©
Government of Kerala
1985



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 3rd April 1985 / 13th Chaithra 1907 [No. 286

GOVERNMENT OF KERALA

Local Administration and Social Welfare (G) Department

NOTIFICATION

G.O. (Ms) No. 72/85/LA & SWD. *Dated, Trivandrum, 3rd April,* 1985.

S. R. O. No. 475/85.—In exercise of the powers conferred by sub-section (1) of Section 53B of the Town Planning Act, 1108 (IV of 1108), and in partial modification of Notification G. O. (MS) No. 122/81/LA & SWD dated the 8th July, 1981, published as S. R. O. No. 805/81 in the Kerala Gazette Extraordinary No. 538 dated the 8th July, 1981, the Government of Kerala hereby appoint Shri C. H. Damodaran Nambiar, I. A. S. as full time Chairman of Trichur Urban Development Authority and make the following consequential amendment to the said Notification, namely:—

AMENDMENT

In the said Notification, in entry 1, for the words and brackets, "Chairman—District Collector, Trichur (Ex-officio)", the following words and letters shall be substituted; namely:— "Chairman—Shri C. H. Damodaran Nambiar, I. A. S.".

By order of the Governor,

T. V. SWAMINATHAN,
Commissioner and Secretary.

33/1379/MC

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

The District Collector, Trichur was the Ex-officio Chairman of Trichur Urban Development Authority. Now Government have decided to appoint Shri C. H. Damodaran Nambiar, I. A. S. as the full-time Chairman of Trichur Urban Development Authority. This notification is intended to achieve the above object.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.